

Message Text

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PAGE 01 CARACA 08604 302012Z

ACTION ARA-14

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FM AMEMBASSY CARACAS

TO SECSTATE WASHDC IMMEDIATE 9012

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FOR ARA/AND/V AND L/M

E.O. 11652: N/A

TAGS: PFOR, CPRS, VE, US, CFED

SUBJECT: BORDONI CASE - VENEZUELAN SUPREME COURT REQUESTS

USG FURNISH IT GRAND JURY EVIDENCE USED TO INDICE BORDONI

REF: 76 CARACAS 14676, STATE 76 A-4318

1. BY FOREIGN MINISTRY NOTE DATED AUGUST 26, RECEIVED AUGUST 29, THE FOREIGN MINISTRY HAS SUBMITTED TO EMBASSY A CERTIFIED COPY OF AN OFFICIAL ORDER OF THE CRIMINAL CHAMBER OF THE VENEZUELAN SUPREME COURT, IN WHICH THE CHAMBER OFFICIALLY REQUESTS THAT THE UNITED STATES GOVERNMENT MAKE AVAILABLE TO THAT CHAMBER THE EVIDENCE WHICH THE FEDERAL GRAND JURY CONSIDERED ADEQUATE TO FORMALLY ACCUSE CARLO BORDONI OF THE CRIMES LISTED IN THE U.S. REQUEST FOR EXTRADITION.

2. SALIENT POINTS OF SUPREME COURT ORDER FOLLOW:

--THE CHAMBER HAS UNDER CONSIDERATION THE REQUEST SUBMITTED BY THE USG FOR THE EXTRADITION OF CARLO BORDONI, WHICH WAS BASED ON THE FACTS ESTABLISHED IN THE INDICTMENT BROUGHT BY THE FEDERAL GRAND JURY, CONTAINED IN EIGHT FOLDERS OF EVIDENCE, AMONG WHICH WAS INCLUDED THE REQUEST
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FOR EXTRADITION.

--SINCE ARTICLE 1 OF THE TREATY OF EXTRADITION BETWEEN VENEZUELA AND THE UNITED STATES OF AMERICA STATES THAT "SURRENDER SHALL TAKE PLACE ONLY UPON SUCH EVIDENCE OF GUILT AS, ACCORDING TO THE LAWS OF THE COUNTRY IN WHICH THE FUGITIVE OR ACCUSED SHALL BE FOUND, WOULD JUSTIFY HIS DETENTION AND COMMITMENT FOR TRIAL IF THE CRIME OR OFFENSE

HAD BEEN COMMITTED THERE," AND FURTHER, GIVEN THAT ARTICLE 11 OF THE EXTRADITION TREATY STATES THAT THE REQUESTING COUNTRY MUST PRODUCE A DUTY AUTHENTICATED COPY, NOT ONLY OF THE WARRANT OF ARREST, BUT ALSO OF THE DEPOSITIONS UPON WHICH SUCH WARRANT MAY HAVE BEEN ISSUED, WITH SUCH OTHER EVIDENCE OR PROOF AS MAY BE DEEMED COMPETENT IN THE CASE, THE CHAMBER AGREES TO REQUEST OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA, THROUGH THE COMPETENT AUTHORITIES, THE EVIDENCE THAT THE FEDERAL GRAND JURY CONSIDERED ADEQUATE TO ACCUSE CARLO BORDONI OF THE CRIMES INDICATED IN THE REQUEST FOR EXTRADITION.

--A PERIOD OF SIXTY (60) DAYS IS HEREBY FIXED, BEGINNING WITH THE PRESENT DATE (AUGUST 12) FOR THE REQUESTING STATE TO PRESENT THE EVIDENCE REQUESTED.

--THIS DECISION IS MADE IN CONFORMITY WITH ARTICLE 293 OF THE CODE OF CRIMINAL JUSTICE, APPLICABLE IN VIRTUE OF THE ARTICLE 360 EJUSDEM AND IN RELATION TO ARTICLE 391 OF THE SAME CODE AND OF ARTICLE 81 OF THE ORGANIC LAW OF THE SUPREME COURT.

3. COMMENT: EMBASSY SUBMITTED ALL DOCUMENTS RECEIVED IN 76 A-4318 TO THE FOREIGN MINISTRY ON SEPTEMBER 2, 1976 FOR TRANSMISSION TO THE COURT. WHILE WE CANNOT BE CERTAIN, WE PRESUME THAT ALL THE DOCUMENTS, INCLUDING THE LIMITED OFFICIAL USE

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AUTHENTICATED COPY OF THE INDICTMENT OF MR. BORDONI (76 CRIM 948 OF THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK) WERE CONSIDERED BY THE COURT. SOME OF THE DOCUMENTS WERE TRANSLATED PRIOR TO SUBMISSION, BUT THE INDICTMENT WAS SUBMITTED ONLY IN ENGLISH, SO WE CANNOT BE CERTAIN THAT THE COURT HAS CONSIDERED IT. NORMAL VENEZUELAN JUDICIAL PROCEDURE, HOWEVER, INCLUDES TRANSLATION BY THE VENEZUELAN OF FOREIGN LANGUAGE DOCUMENTS FOR COURT USE. THUS WE PRESUME THAT THE COURT HAS CONSIDERED IT AS WELL. CHARGE HAS REQUESTED APPOINTMENT WITH MINISTER OF JUSTICE ASAP TO ASCERTAIN INFORMALLY WHETHER FULL INDICEMENT DOCUMENT WAS CONSIDERED, AND TO DETERMINE, IF POSSIBLE, WHAT OTHER DOCUMENTS THE COURT WOULD REQUIRE.

4. EMBASSY POUCHING COPY FORMIN NOTE AND COURT ORDER TO ARA/AND/V.
FRECHETTE

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Message Attributes

Automatic Decaptioning: X
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Decaption Note:
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Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
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